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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10 FRESNO DIVISION
11

12 **KEVIN HAGAN,**

13 Plaintiff,

14 v.

15 **RAUL RECAREY, et al.,**

16 Defendants.
17
18

1:22-cv-00562-AWI-EPG

STIPULATION AND ORDER RE: CASE DEADLINES

Judge: The Honorable Erica P.
Grosjean
Action Filed: May 9, 2022

19 WHEREAS, on May 9, 2022, Plaintiff, initiated this lawsuit by filing a Complaint alleging
20 Eighth Amendment violations against Defendants R. Recarey, L. Bird, and K. Allison
21 (“Defendants”) (ECF No. 1);

22 WHEREAS, on May 11, 2022, the Court ordered the parties to attend a formal Scheduling
23 Conference on September 13, 2022 (ECF No. 4);

24 WHEREAS, on May 16, 2022, Defendants filed their notice of intent to waive service (ECF
25 No. 11);

26 WHEREAS, pursuant to Defendants’ waiver of service, their answer to the Complaint is
27 due on July 15, 2022 (ECF No. 12);
28

1 WHEREAS, on June 13, 2022, the Court issued an Order re: Early Settlement Conference,
2 requiring that the parties meet-and-confer about settlement and Defendants opt out of an early
3 settlement conference, if necessary, by July 29, 2022;

4 WHEREAS, the parties have conferred and Plaintiff wishes to amend the Complaint to
5 include additional defendants;

6 WHEREAS, the Court would have to screen the First Amended Complaint, issue summons,
7 find service appropriate, and direct e-service on the new defendants after the First Amended
8 Complaint is filed¹;

9 NOW, THEREFORE, the parties stipulate and agree to the following schedule to allow
10 Plaintiff sufficient time to prepare and file a First Amended Complaint and Defendants sufficient
11 time to answer the same:

12 1. Plaintiff shall file his First Amended Complaint on or before September 18, 2022²;

13 2. Defendants shall request screening of the First Amended Complaint within fourteen
14 (14) days of its filing, and Defendants shall answer the First Amended Complaint sixty (60) days
15 after the new defendants' notice of intent to waive service;

16 3. The Scheduling Conference is continued to a date to be determined by the Court at a
17 later time and by separate order;

18 4. The Parties' deadline to meet-and-confer regarding settlement and Defendants'
19 deadline to opt out of an early settlement conference are continued to dates to be determined by
20 the Court at a later time and by separate order.

21 _____
22 ¹ Although it does not appear that the Court screened the operative Complaint
23 (presumably because Plaintiff paid the filing fee), Defendants will request that the Court screen
24 the First Amended Complaint pursuant to the Prison Litigation Reform Act, which provides that
25 "[t]he court shall review, before docketing, if feasible or, in any event, as soon as practicable after
26 docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental
27 entity or officer or employee of a governmental entity." 28 U.S.C. § 1915A(a). Upon such
28 review, the court shall identify cognizable claims or dismiss all or any portion of the complaint if
it "is frivolous, malicious, or fails to state a claim upon which relief may be granted." 28 U.S.C.
§ 1915A(b). The Court has the authority to screen the First Amended Complaint notwithstanding
the payment of any filing fee. *See Muhammad v. Ortiz*, No. 04-cv-5534-AWI (WMW), 2006 WL
845640, fn. 2 (E.D. Cal. Mar. 30, 2006) (citing 28 U.S.C. § 1915(e)(2)(B)(i); 28 U.S.C. §
1915A(b)(1); and 42 U.S.C. § 1997(e)(c)(1)).

² On June 16, 2022, Plaintiff's counsel sent Notice of Intent to Sue letters to two
additional doctors, under California Code of Civil Procedure § 364.

1 Dated: July 13, 2022

Respectfully submitted,

2 /s/ Benjamin Rudin
3 BENJAMIN RUDIN
4 *Attorney for Plaintiff*
5 *Kevin Hagan*

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6 /s/ Neculai Grecea
7 NECULAI GRECEA
8 Deputy Attorney General
9 *Attorneys for Defendants*
10 *R. Recarey, L. Bird, and K. Allison*

ORDER

Having considered the parties' stipulation, the Court will grant the parties' request and will screen the First Amended Complaint in due course after it is filed. Following screening, the Court will further address issuance of a summons for any new defendants, the deadline for Defendants Raul Recarey, Landon Bird, and Kathleen Allison's responses to the First Amended Complaint, and resetting the Initial Scheduling Conference and the Early Settlement Conference deadlines as necessary and appropriate.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff may file a First Amended Complaint on or before September 18, 2022;
2. The deadline for Defendants Raul Recarey, Landon Bird, and Kathleen Allison to file a response to the First Amended Complaint is extended pending screening and a further order from the Court;
3. The Initial Scheduling Conference currently set for September 13, 2022 (*see* ECF No. 4), is VACATED; and
4. The parties' deadline to meet-and-confer regarding an Early Settlement Conference (*see* ECF No. 13) is VACATED.

IT IS SO ORDERED.

Dated: July 14, 2022

/s/ Eric P. Shoup
UNITED STATES MAGISTRATE JUDGE